



REISSUE LITIGATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Applicant: Jack Beery  
Serial No.: 08/116,019  
Filed: September 2, 1993  
Title: TELEVISION RECEIVER HAVING MEMORY CONTROL FOR  
TUNE-BY-LABEL FEATURE  
Reissue of: U.S. Patent No. 5,045,947  
Issued: September 3, 1991  
Docket No.: JB-2.3

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Commissioner of Patents and Trademarks  
Washington, DC 20231

SUPPLEMENTAL DECLARATION

Dear sir:

I, Jack Beery, hereby declare as follows:

My residence and post office address is 1550 Cedar Bark Trail, Unit 1, Dayton, Ohio 45449, and I am a citizen of the United States of America.

I have previously submitted a "DECLARATION AND POWER OF ATTORNEY (REISSUE)" in connection with the application for reissue patent identified above, which Declaration was executed by me on August 16, 1994.

I am the owner of all right, title and interest in and to United States Patents Nos. 5,045,947 and 5,068,734.

In the aforesaid Declaration, I stated that I verily believe my U.S. Patent No. 5,045,947 (hereinafter referred to as the '947 patent) to be partly inoperative or invalid by reason of the

Patentee claiming less than Patentee had a right to claim in the '947 patent.

This Supplemental Declaration is made to set forth the following changes to the '947 patent which are made in this application as a result of amendments filed concurrently herewith (hereafter the "Amendments"):

Changes to the Claims

The Amendments amend claim 5 and add new claims 49-56. Claim 5 is amended by deleting, from the first recited step of claim 5, the words "operator-selected."

Claim 49

Claim 49 is unlike any claim of the '947 patent. It is similar to claim 20 of this application, except that in each instance, "channel code" has been substituted for "channel tuning designation", and "select code" has been substituted for "channel select designation".

Claim 50

Claim 50 is unlike any claim of the '947 patent. It is similar to claim 17 of this application, except that in each instance, "channel code" has been substituted for "channel tuning designation", and "select code" has been substituted for "channel select designation".

Claim 51

Claim 51 is unlike any claim of the '947 patent. It is similar to claim 25 of this application, except that in each instance, "channel code" has been substituted for "channel tuning designation", and "select code" has been substituted for "channel select designation".

Claim 52

Claim 52 is unlike any claim of the '947 patent. It is similar to claim 27 of this application, except that in each instance, "channel code" has been substituted for "channel tuning designation", and "select code" has been substituted for "channel select designation".

Claim 53

Claim 53 is unlike any claim of the '947 patent. It is similar to claim 20 of this application, except that the first element of claim 20 has been changed as follows (added language shown by italics and deleted language shown by brackets):

memory means for storing a *plurality of said channel tuning designations within a first series, and for storing within a second series a plurality of [at least one] operator-assigned channel select designations wherein each of said channel select designations within said second series corresponds to [for at least] one of said channel tuning designations within said first series;*

and the third element has been changed as follows:

processor means for receiving said control output signal from said operator-actuated control means, and in response to said first data set, causing said memory means to store said desired channel select designation *within said second series* as corresponding to said one channel tuning designation *within said first series*, and in response to said second data set, retrieving from said *first series* [memory means] the one of said channel tuning designations corresponding to said operator selected channel select designation, and generating said channel tuning control signal to correspond to said one channel tuning designation.

Claim 54

Claim 54 is unlike any claim of the '947 patent. It is dependent on claim 53 of this reissue application, and adds to that claim the further limitations that:

said memory means further includes means for storing within a third series an operator-assigned display designation corresponding to at least one of said channel tuning designations within said first series;

said control output signal further comprises one of (c) a third data set representative of a desired display designation for one of said channel tuning designations;

said processor means further, following receipt of said third data set, causing said memory means to store said desired channel select designation within said third series as corresponding to said one channel tuning designation, and further following receipt of said second data set, retrieving from said third series the one of said display designations corresponding to said next channel tuning designation and causing said one display designation to be displayed on said display.

Claim 55

Claim 55 is unlike any claim in the '947 patent. It is dependent on claim 5 of this reissue application, and adds to that claim the further limitations that:

said step of generating said first control output signal is performed by a first person, and wherein said step of generating said second control output signal is performed by a second person.

Claim 56

Claim 56 is unlike any claim in the '947 patent. It is dependent on claim 5 of this reissue application, and adds to that claim the further limitations that:

said step of generating said first control output signal is performed by a first person, and wherein said desired channel select designation is predetermined by a second person.

In connection with this reissue application I have, since August 16, 1994 when my prior Declaration was executed by me, continued to study the '947 patent along with, at my request, the attorney who represented me through the prosecution of the '947 patent, Thomas A. Boshinski, to determine whether the specification and prior art relevant to the '947 patent would permit broader claims than those which were originally granted.

During this time, I have also been actively pursuing an infringement litigation concerning my United States Patent No. 5,068,734, which patent issued on the parent application to that from which the '947 patent issued. That litigation, Beery v. Hitachi Home Electronics (America), Inc., brought in the Federal District Court for the Central District of California, has further caused me to study the claims of the '947 patent during the period of August 18, 1994 to the present.

Together, Mr. Boshinski and I identified in addition to the claims presented in the application and its amendment on August 18, 1994 the subject matter set out in claim 5 as amended and claims 49-56 which, through error and without deceptive intent, were not presented in the original application and which were not earlier presented in this application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and

Serial No. 08/116,019

Page 6

belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Jack Beery  
Jack Beery

11 January 1995  
Date